

Agricultural Law Memo

ALM 10-01

March 11, 2010

TOPIC: Greenhouses used for retail sale and the State Building Code

ISSUE: Whether the exemption from the Construction Control portion of the state Building Code apply to greenhouses that may have some retail sales or uses.

A farmer who operates a nursery and greenhouse operation seeks to expand an existing greenhouse.¹ On occasion, this greenhouse and its addition will have employees of the farm and retail customers moving through the building. The occupancy at any given time is not expected to exceed 100. The completed size will exceed 35,000 cubic feet.

The Construction Control portion of the state Building Code requires professional engineering services for construction control, but also provides exemptions. One exemption states: “Any building used **exclusively** for farm purposes (this exemption does not apply if the building is to be used for large assemblies of people or uses other than farm purposes)[.]” (“Farm Building Exemption”) ([780 CMR 116.1\(3\)](#)) (Emphasis added). The emphasis on “exclusively” is added because this is not included in laws that grant this exemption. See, [M.G.L., c. 112, §60L](#).

The 7th Edition of the Building Code was recently amended to better define and articulate provisions for agricultural buildings. Four (4) main amendments were adopted and accomplish the following: (1) define “Agriculture and farming”; (2) define “Agricultural Building”; (3) establish agricultural buildings as use Group U buildings; (4) further establish that agricultural buildings with an occupancy of 100 or less remains an agricultural building in use Group U; for occupancies greater than 100 the building is to be classified according to their intended use. See, [780 CMR](#).

Since the greenhouse described above has an expected occupancy of 100 or less, it is considered an agricultural building and will be used for “farm purposes.” Therefore, the exemption from Construction Control applies and the construction or expansion of the greenhouse would not require professional engineering services for construction control.

¹ This analysis would also apply to a new building as well as barns, stables, farm stands, etc.